

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHEASTERN DIVISION

Alberto Chahia, a/k/a Chingone,	)	
	)	Case No. 3:06-cr-132-02
Petitioner,	)	
	)	
-vs-	)	<b>ORDER ADOPTING REPORT AND</b>
	)	<b>RECOMMENDATION</b>
United States of America,	)	
	)	
Respondent.	)	

Before the Court is Alberto Chahia's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Chahia's motion be denied (Doc. #450). Chahia was granted an extension until May 6, 2011, to file objections to the magistrate judge's Report and Recommendation (Doc. #454). He has not filed any objections.

The Court has reviewed the Report and Recommendation, along with the entire file, and finds the Magistrate Judge's analysis is appropriate. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons stated therein, Chahia's motion to vacate, set aside, or correct sentence is **DENIED**.

**CERTIFICATE OF APPEALABILITY**

The Court certifies that an appeal from the dismissal of this action may not be taken *in forma pauperis* because such an appeal would be frivolous and cannot be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). Furthermore, the Court finds that Chahia has failed to make a substantial showing of the denial of a constitutional right, and the issues

presented in this case are inadequate to deserve further consideration. See Miller-El v. Cockrell, 537 U.S. 322, 327 (2003). Therefore, the Court will not issue a certificate of appealability.

If Chahia desires further review of his Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255, he may request the issuance of a certificate of appealability by a circuit judge of the Eighth Circuit Court of Appeals in accordance with Tiedeman v. Benson, 122 F.3d 518, 520-22 (8th Cir. 1997).

**IT IS SO ORDERED.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated this 11th day of May, 2011.

/s/ Ralph R. Erickson  
Ralph R. Erickson, Chief District Judge  
United States District Court